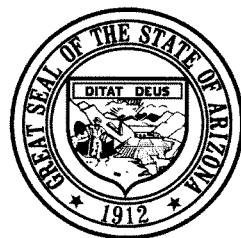


**Proposed Draft Best Management Practices Program (modified Non-Per Capita Conservation Program): A Summary of Stakeholder Comments and ADWR Responses**

**Arizona Department of Water Resources  
3550 North Central Avenue  
Phoenix, Arizona 85012**



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## **Background and Rationale for a Best Management Practices Program (modified Non-Per Capita Program)**

Since the inception of municipal conservation requirements assigned through the Arizona Department of Water Resources' (Department) management plans, public and private water utilities in the Active Management Areas (AMAs) have been largely regulated in the same manner. Private utilities, as well as municipalities, have long claimed that regulation under the base municipal conservation program restricts their ability to serve increasing non-residential water uses. While alternative municipal conservation programs exist that are aimed at addressing this issue, private water companies have continually maintained that enrollment requirements for these programs would require significant additional expense, with no guarantee that the Arizona Corporation Commission (ACC) would allow them to recover the costs through increased rates.

This issue and others resulted in the Department being sued by Arizona Water Company and Arizona American Water Company, both private utilities, in 1999 following adoption of the Third Management Plan. While three of the issues raised in the lawsuits (regulating end users, conflicts with the ACC, and counting CAP water in the GPCD calculation) were decided in favor of the Department in a lawsuit brought by Arizona Water Company challenging the Second Management Plan, other issues raised in the Third Management Plan lawsuits, including the issue relating to increasing non-residential use, remain open pending final judicial resolution. Although the Department feels that it could successfully litigate the remaining issues, the Department believes that there are some components of the municipal conservation program that warrant review and possible modification. Because modification of the municipal conservation program could make the Third Management Plan lawsuits moot, the Superior Court has put the lawsuits on hold until May 1, 2007 to allow the Department to complete its review of the program and pursue any necessary legislative changes.

In early 2005, as a result of several years of internal consideration and discussion, the Department made the commitment to conduct a formal review of the current municipal conservation program for providers in AMAs and assigned staff to organize and facilitate the review. Interviews were held with AMA Directors and other Department staff who had direct experience with development and/or implementation of the municipal program. Additional interviews were held with twenty-two water providers in the Phoenix, Tucson, Pinal and Prescott AMAs, as well as staff from the Arizona Corporation Commission, to introduce the review process, to request feedback on the existing regulatory program, and to ask for ideas regarding additional options that may be considered during the review process. A detailed summary of the comments and suggestions offered during these meetings can be found in the report, *Evaluation of the Third Management Plan Program for Large Municipal Water Providers in Active Management Areas: Summary of Interviews and Framework for the Stakeholder Process*, a copy of which can be found on the Department's website, azwater.gov.

The general consensus of opinion among Department staff and municipal water provider representatives was to continue the review process to consider the possibility of developing an alternative to the current regulatory program. Those who were interviewed, including Department staff and water providers, suggested the following general approaches: (1) a program for municipal water providers to develop and implement a water conservation plan, (2) a prescribed conservation program, or a Best Management Practices (BMP) program, whereby all municipal providers would implement a basic set of water conservation measures, then choose additional measures to correspond with their service area characteristics, and (3) a modified Alternative Conservation Program (ACP), which would be similar to the ACP currently available pursuant to the Third Management Plan but

with the requirement to obtain a Designation of Assured Water Supply to address required groundwater limitations.

Department staff has been meeting with a stakeholder group comprised of regulated water providers, the ACC, Department of Interior staff, Central Arizona Project (CAP) staff and other interested parties to review and discuss the municipal conservation requirements of the Third Management Plans. The intended outcomes of this process are to develop a municipal conservation program that: a) fosters water use efficiency and a long-term culture of conservation within the five AMAs of the state, b) can be effectively implemented by the Department, and c) addresses concerns expressed by private water companies.

The formal stakeholder process was initiated in February 2006 to present information gathered to date and to present the possible options for a new municipal conservation program identified during the informal information gathering process. All large municipal water providers in all AMAs were invited to participate in the process. Seven stakeholder meetings were held between February and June 2006. During the meeting on March 24, 2006, stakeholders expressed their preference for developing a BMP program. The remainder of the stakeholder process was dedicated to this objective. Also during that time, a BMP subcommittee, comprised of volunteers from the larger stakeholder group, met to refine the general listing of BMPs generated by the stakeholder group, prepare definitions for some of the BMPs and discuss possible components of a program framework.

A draft proposed municipal BMP program framework was prepared by Department staff and contains input, suggestions, and proposals made by stakeholders and Department staff. The draft was provided to all large municipal providers for review and comment. Comments received by stakeholders were reviewed by Department staff. Responses to stakeholder comments were prepared and are presented below, along with a summary of comments received. Modifications to the draft program framework are being made in response to many of the comments provided by the stakeholders. In addition, draft legislation is being prepared by Department staff to enable implementation of the program.

With the help of the stakeholder group, the Department has developed a program that it feels will increase water use efficiency in the municipal sector, especially for private water utilities and smaller municipalities with emerging water conservation programs. It should be recognized that the largest water providers (Phoenix, Tempe, Tucson, Mesa, Chandler, Glendale, Peoria, Scottsdale, Gilbert, Goodyear, Avondale, Surprise, and Metro in Tucson) have been successfully implementing extensive water conservation programs over the past 25 years. The successful experience of these water providers was also used in developing the proposed program. This proposed program, which modifies the existing Non-Per Capita Conservation Program (NPCCP), focuses more directly on the water use characteristics within a water provider's service area and is proposed as a requirement for water providers who typically have not implemented extensive water conservation measures. The program also focuses more directly on water conservation as a tool to conserve all water resources, not just groundwater (although a water provider who uses only non-groundwater supplies would still be exempt from water conservation requirements). This program, formerly referred to as the BMP program, will be called the modified NPCCP in this and in subsequent documents.

As was stated before, the successful implementation of this program will result in additional water use efficiency. To help ensure its success, the Department will facilitate a coordinated review and evaluation of the program during the remainder of the Third Management Plan and throughout implementation of the Fourth Management Plan. In addition, Department staff will be involved in helping water providers who request assistance in identifying water conservation measures that may be effective in their communities.

### **Summary of Comments and Responses – Draft Proposed Municipal BMP Framework**

The proposed Draft Municipal BMP Framework was emailed to stakeholders on June 20, 2006 and presented during a stakeholder meeting held on June 23, 2006. Comments on the Draft Framework and on the Draft Provider Profile were requested by Department staff. The comment deadline was July 17, 2006, with a one-week extension granted to providers who requested one. Comments were received from sixteen stakeholder organizations: representatives of nine cities and towns, four private water company representatives, staff from two associations representing municipal water providers, and staff from the ACC. A complete list of those providing comments is included below:

Organization	Individual submitting comments
Arizona Corporation Commission	Steve Olea, Assistant Director – Utilities Division
Arizona Municipal Water Users Association	Steven Olson, Executive Director (AMWUA represents the Cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Tempe and the Town of Gilbert)
Arizona Water Company	Bill Garfield, President /Tom Harrell, Field Services Coordinator (Arizona Water Company owns and operates numerous municipal water systems in AMAs)
City of Chandler	Karen Barfoot, Ass't. Municipal Utilities Dir./Gregg Capps, Water Res. Mgr.
Town of Gilbert	Lonnie Frost, Public Works Director/Kathy Rall, Water Resources Administrator
City of Glendale	Stephen Rot, Environmental Program Manager
Global Water Resources	Graham Symmonds, SVP Operations and Compliance (Global Resources owns Cave Creek WC, Santa Cruz WC, Water Utility of Greater Buckeye, Water Utility of Greater Tonopah, Water Utility of Northern Scottsdale, Willow Valley WC and Valencia WC)
City of Mesa	Kathryn Sorensen, Water Resources Coordinator/Donna Difrancesco, Acting Utilities Conservation Supervisor
City of Peoria	Bradley Hill, Water Resources Manager
City of Phoenix	Tom Buschatzke, Water Advisor
City of Prescott	Shaun Rydell, Water Conservation Coordinator
Robson Communities	Jim Poulos, VP of Operations and General Manager of Utilities (Robson Communities owns and operates several water companies in three AMAs)
City of Scottsdale	Beth Miller, Water Resources Advisor
Tucson Water	David Modeer, Director
Water CASA	Val Little, Director (Water CASA represents Avra Water Co-op, Community WC of Green Valley, Flowing Wells ID, Town of Marana, Metropolitan Water District and the Oro Valley Water Utility)
Woodruff Utility Company	Karl Polen, Vice-President

The table below summarizes comments submitted by stakeholders and identifies their source. Comments have been grouped by issue category to help illustrate the frequency of similar comments. The comment summary contains language paraphrased from the original comments, as well as language directly quoted from commenters. Direct quotes are not always contained within quotation marks. Comments noting agreement, appreciation and/or support are listed first. Comments noting disagreement, concern and/or suggested alternatives follow and are accompanied by responses prepared by Department staff. Responses are offered for each issue category.

#### **Comments noting agreement/appreciation/support**

Issue Category	Source	Comment
<b>General</b>	Chandler	“Chandler supports ADWR’s efforts to develop an additional municipal conservation program that focuses on water use efficiency while decreasing the administrative effort needed for implementation...The State of Arizona has been a leader in water conservation efforts beginning with the Groundwater Management Act and development of the existing municipal conservation programs. Adding a BMP program would be an additional means for a water provider to comply with the TMP.”
	Gilbert	“Gilbert applauds the Department’s efforts to develop an additional municipal conservation program that focuses on water use efficiency while decreasing the Department’s administrative effort...Gilbert recognizes that the State has been a leader in water conservation since the inception of the Groundwater Management Act, and is in support of the Department’s efforts to develop an optional municipal conservation program.”
	Global	“...Global Water fully supports the development of a sound water conservation program as envisioned by the Arizona Department of Water Resources (ADWR).”
	Mesa	“Mesa supports efforts to design a regulatory conservation program that more easily enables private water companies to include the cost of conservation programs in water rates approved by the Arizona Corporation Commission. Mesa also supports efforts to structure conservation programs in a manner that decreases the administrative effort needed for regulatory oversight.”
	Peoria	Is “...supportive of ADWR’s work to develop a conservation program that results in meaningful water use efficiency and one that can be implemented and administered efficiently and in a timely manner.”
	Phoenix	“The City is supportive of ADWR’s efforts to create a conservation program that provides equity for different water providers, streamlines the workload for both ADWR staff and for staff of the water providers, builds upon the success of existing conservation programs, promotes sustainability, and enables the private water companies to bake the costs of the program into their rates with the approval of the Arizona Corporation Commission.”
	Prescott	“Overall, the program looks smart...This proposed change to the TMP is a progressive move

	Scottsdale	forward.”	“The City of Scottsdale is supportive of the effort that the Department has taken to create a water conservation program with the intention of lessening the burden on staff time for both water providers and the Department... We believe the Department has provided leadership in developing the proposed BMP Program. It is a framework that may very well have merit for use by some municipal water providers, particularly private water companies, that may have difficulty in complying with the currently available conservation program options.”	
	Tucson	“Tucson Water ... compliments ADWR on the level of detail in the BMP draft proposal currently under review.”		
	Woodruff	“...we are committed to the development of a sound water conservation program and we support the ADWR as it seeks to refine its current municipal water conservation program to address issues that specifically impact private water companies.”		
<b>ADWR/AMA Outreach Activities</b>	Water Casa	“We commend ADWR’s inclusion of outreach activities that it will support. These are quite laudable... These actions can be a first step in better telling the Arizona Water Conservation story...”		
<b>Basic BMP approach</b>	Global Robson Woodruff	“In general, as a private water company, we are very supportive of ADWR’s goal to adopt a conservation program alternative that focuses on the efforts made by the provider, rather than the purely quantitative approach contained in the current base conservation program – which stresses only water usage based on total gallons per person per day (‘GPCD’)... As ADWR is aware, the current GPCD program has been historically problematic for private water companies, which under state law must serve all customers within their certificated service area...regardless of service area population. ADWR’s new Best Management Practices (‘BMP’) approach focusing on BMPs implemented by the provider will, in our opinion, support the State’s goal of prompting water conservation efforts made by providers, while at the same time provide a reasonable mechanism for assessing a provider’s compliance with the department’s program.”		
	Phoenix	“ADWR’s preferred alternative for modification of the TMP is to create an optional BMP program and to maintain the GPCD program for designated providers. This will allow for continuity for providers that desire to remain in the GPCD program.”		
	Prescott	“BMPs are an excellent method to support conservation and seem to be receiving wide support from the wide range of water suppliers.”		
	Water Casa	The stakeholder process “...has been an important opportunity to improve conservation regulations for municipal providers with the potential to focus on actual water demand reductions and to minimize bureaucracy for both the Department and the providers. We believe the overall BMP Program concept developed through the Stakeholder Process is solid, and we want to see this BMP Program succeed.”		
<b>BMP Listing</b>	Phoenix	“The actual BMPs that are being suggested by ADWR appear to be things that municipal providers		

		can reasonably accomplish.”
	Scottsdale	“The proposed BMPs are generally acceptable...”with one exception (see section on Conservation Rate Structure below).
<b>Conservation Efforts Report</b>	Prescott	“I look forward to the annual program reports.”
<b>Provider profile</b>	AZWC	“The municipal provider profile should be used to help the municipal provider determine the best BMPs to implement, and to help justify its choices to ADWR. This should not lead to extensive and protracted negotiations between the municipal provider and ADWR. As long as the municipal provider makes a good faith or reasonable effort to implement BMPs, there should not be much going back and forth between the municipal provider and ADWR.”
<b>Stakeholder Process</b>	Global Robson Woodruff	“We understand that the Department’s staff continues to perform an exemplary job in working with the stakeholders in this process and we commend their efforts.”
	Glendale	“The City of Glendale applauds the Department’s efforts in convening the stakeholder process to develop this program; and appreciates the opportunity to submit comments....”
	Peoria	“ADWR has done a fine job of facilitating the stakeholder process and developing this draft framework.”
	Prescott	“It has been a pleasure to participate in the process. Thank you for managing the process so well.”
	Tucson	“Throughout the stakeholder process, ADWR has been receptive to suggestions and has demonstrated a willingness to develop a BMP program that meets or addresses all stakeholder needs”...even though the stakeholder process has demonstrated that a “one size fits all” program is difficult – if not impossible - to accomplish.”
<b>Tier structure</b>	AZWC	“The number of BMPs required based on the number of connections is generally a good method of establishing the level of expertise and efforts that any given municipal provider should be able to expend toward conservation....”

**Comments noting disagreement/concern/suggested alternatives**

Issue Category	Source	Comment	ADWR Response
<b>Mandatory/optional program – TMP/4MP</b>			
Base program change (GPCD to BMP)	AMWUA	The GPCD should remain as the base program and the non-per capita program should also be available to providers (exception – see below).	Please note, the responses below pertain to the stakeholder comments summarized on this page, on pages 8 and 9 and on the top of page 10.
	AMWUA	The BMP program should be required for investor-owned water utilities and for those providers without a designation of assured water supply for the remainder of the TMP. If it meets expectations, it can be considered as the base program for the 4MP. The BMP program would not be supported unless there is evidence that it is an improvement over the existing programs.	In all discussions, the external consensus was that any new program needed to be evaluated for some reasonable period of time before any decision is made regarding its permanency. In response to these comments and based on our own feelings and convictions, the Department has structured the modified municipal program as follows:
	Chandler	The BMP program should be optional for providers in compliance with existing programs identified in the TMP. Chandler is opposed to elimination of the NPCCP. They don't understand how ADWR can unilaterally alter the conditions of their S&CO. Elimination of the NPCCP sends the message that it is not effective in increasing water use efficiency.	There would be essentially two programs of equal weighting: the existing total GPCD Program and the modified NPCCP. Every large municipal provider would be given notice of the modified NPCCP. This NPCCP would, in fact, be the newly developed Municipal BMP Program renamed. This would create the new program we all seem to want.
	Gilbert	Supports addition of an optional BMP program rather than replacing existing programs with a BMP program. Sends the wrong message that the NPCCP program is not successful in increasing water use efficiency. Their S&CO runs through the TMP.	The notice would state that large providers that are designated as having an Assured Water Supply may remain in the Total GPCD Program. There would be no application to fill out, nor any analysis or determination by the Department in
	Glendale	Concerned that ADWR intends to replace the existing conservation programs with an untested BMP program.	
	Mesa	The current GPCD program should remain. Any	

		<p>additional programs should be introduced as a pilot program. The BMP program as outlined does not define the goals or required reporting with enough clarity to determine whether it could be implemented successfully. ADWR should add the BMP as a complement rather than a replacement for the existing, well-established programs.</p>	<p>this regard. It is presumed that most cities and towns will continue being regulated by this program.</p> <p>All other large municipal providers, except large untreated water providers serving only untreated water, would be regulated under the modified NPCCP. It is presumed that most private water companies would be regulated under this program.</p>
	Peoria	<p>Peoria believes that more attention should be given to the details of the proposed program before any changes are made the current program: the program is not defined well enough to justify using it as a replacement for the existing programs. Peoria recommends implementing the BMP program only as an additional alternative to the existing program for the remainder of the TMP.</p>	<p>All large municipal providers currently regulated by the Third Management Plan NPCCP would remain in that program and be subject to the conditions of the written agreements that govern them until any subsequent Fourth Management Plan requirements. At that time, any differences between these existing NPCCP agreements and the program elements of the modified NPCCP will be addressed.</p>
	Phoenix	<p>The BMP program is one way, but not the only way, to increase water use efficiency. The existing programs are also vital tools to accomplish this goal. ADWR should give serious consideration to adding the BMP program to its toolbox, rather than making it the only one. Since ADWR plans to include a water use benchmark in the BMP program, there would be no benefit to removing the GPCD program as an option in the 4MP.</p>	<p>Also, it should be clear that, for the most part, the Total GPCD Program has resulted in the development of strong and effective conservation programs, resulting in reductions in GPCD rates.</p>
	Scottsdale	<p>Agrees with the option for designated providers to remain in the GPCD program - provides continuity. Also believes it was originally intended that the BMP program would be tested as a pilot program in the TMP. Encourages ADWR to consider legislation to add the BMP program, but retain the existing options. This would be a reasonable legislative goal.</p>	<p>The City does not support the existence of only one water conservation program for all providers. Until the BMP program has been refined and tested, the</p>

		Department should continue to offer its existing municipal water conservation programs. All current options should be available as we continue into the 4MP. Although extensive and time consuming, the reporting requirements associated with the NPCCP provide Scottsdale with valuable metrics, the use of which enhances Scottsdale's ability to communicate about the success of its conservation program to its Council, management, and customers.
	Tucson Water	A one size fits all program would be difficult, if not impossible to accomplish. Providers should not be forced into a program that may not suit their specific needs. Tucson Water strongly suggests retention of the GPCD and NPCCP programs as options for designated providers in the 4MP, in addition to offering the BMP program. Meanwhile, providers who are compliant and who want to remain in their current programs should be allowed to do so through the remainder of the TMP.
	Water Casa	Unless all providers are willing to give up the GPCD program, it should remain in place throughout the remainder of the TMP. Stakeholders have continually asked for the BMP program to be initiated as a pilot program, as was the ag BMP program. It is important to be certain the BMP program is "grounded and solid before making all the statutory changes."
4MP issue – additional stakeholders	Peoria	At the beginning of the stakeholder process, it was understood that efforts made to develop a different program would apply only to the TMP. There might be a different set of stakeholders and different stakeholder involvement if it was made clear that the outcome(s) of the process would be carried forward as the base program for the 4MP.
	Phoenix	Similar comment to Peoria's above. Added:

		<p>perhaps notification to interested parties should be expanded to clarify that the current TMP stakeholder process is determining elements of the 4MP.</p> <p>Maintaining the existing options through the 4MP would be a good idea since predicting this far into the future would be difficult. Flexibility should be ADWR's goal. Phoenix is concerned about delaying adoption of the 4MP as it sends the wrong message about the State's strong commitment to effectively manage its water supplies.</p>	
	<b>Implementation Issues</b>		
Administrative burden on ADWR	AMWUA	<p>The BMP program would be as time consuming to implement as the programs already in force for the TMP. Negotiations would be necessary if ADWR and the provider disagree on the types of BMPs appropriate for a provider's service area. Provider profile updates, BMP substitutions, and the adequacy of annual reports could give rise to disputes between ADWR and a provider. There is no evidence that the GPCD program is more administratively burdensome than the proposed program would be.</p>	<p>A few comments have been made by stakeholders regarding implementation issues. The most prominent comment pertains to the Department's stated objective to minimize the administrative burden associated with the current municipal conservation program. On the provider side, there are burdens associated with negotiating entrance into the existing NPCCP, substantiating annual population estimates, calculating and categorizing water use, and the annual water use report itself. On the Department's side, there are burdens associated with negotiations on the NPCCP, determining compliance for providers in the NPCCP, and determining annual GPCD rates for providers in the Total GPCD program. Most providers who commented on this stated objective feel that the administrative burden will increase not decrease, due to the provider-specific approach being taken in the modified NPCCP (provider profiles, BMP matches to their service area characteristics in the Profiles, BMP substitutions, and annual efforts reports). While</p>
	Chandler	<p>The proposed BMP program does not reduce the administrative burden. Implementing the RCMs and preparing the NPCCP annual report does not require extraordinary administrative effort. Since ADWR has not reviewed compliance reports submitted per the NPCCP program, it would be difficult to gauge the administrative effort required by ADWR. Since the BMP process would be similar to the NPCCP process, the same administrative burden would be created.</p>	Comment similar to Chandler's above.
	Gilbert		

	Mesa	The administrative burden associated with the GPCD program should have decreased since 1999 since there is improved technology that would facilitate development of water service area population estimates and estimates of winter visitors, thus reducing the likelihood of protracted arguments over water service area populations between providers and ADWR. Since ADWR plans to use GPCD as a water use measurement, service area calculations will be needed anyway.	there is some agreement from the Department on this comment, it is our intention to streamline certain elements of the new program (e.g., annual reporting provisions) resulting in some reduction in administrative activities. The Department will create an advisory committee to assist in: (1) developing a guidance document and associated forms to facilitate completion of the Provider Profile and Conservation Efforts Report and (2) evaluating BMPs and the modified NPCCP in general. This committee would have the responsibility of an advisory committee under the Department's auspices. The development of a guidance document should reduce concerns of ambiguity expressed by stakeholders and result in a more efficient process.
	Peoria	Given the time needed to accommodate efforts associated with the Provider Profile, Conservation Efforts Report, the annual water use measurements, program evaluations, and publicity and promotional efforts, it seems doubtful that the program will achieve ADWR's goal of reducing its administrative burden.	Similar comment to Peoria's. Phoenix also cites ADWR's plan to calculate water use measurements as part of the BMP program (GPCD) as another reason why this program would not reduce ADWR's administrative burden (similar to Mesa's comment above).
	Phoenix		
	Scottsdale	Based on the number of reviews required under the draft Framework (triennial Provider Profile and annual Conservation Efforts Report), the program may not achieve the goal of reducing the Department's administrative burden. Scottsdale suggests that, instead of requiring Provider Profiles every three years, "...a trigger such as an increase in population or the beginning of a new management plan would indicate a need for a new profile."	Other comments focused on giving providers enrolled in the modified NPCCP an adequate amount of time to develop and support the BMPs they have selected. They argue that providers that have done little or nothing in the area of water conservation will need some time to develop the programs they have agreed to do. It is reasonable for ADWR to consider such a time period. Unlike the Agricultural BMP Program where the BMPs must be in place and ready to go as a precondition of enrollment, many of the municipal providers entering into a program that will require the implementation of BMPs are basically starting from scratch and will need some time. If notification of this new municipal program occurs at the end of 2007, the new program does not officially take effect until 2010. This would give each provider anticipating regulation by this new
Administrative burden on the provider	AZWC	BMP program needs to be flexible, allowing for	

	AZWC	<p>substitutions, deletions, additions.</p> <p>Providers should not be solely responsible for the cost of BMPs. ADWR should consider other alternatives (i.e.: end user to pay for water saving devices, rather than the provider, perhaps through low-cost financing).</p>	<p>program two years to select its BMPs, determine how to build each program, secure financial support, hire staff and/or purchase equipment and begin the program. The Department is prepared to work with providers during this two year period in identifying and establishing an effective conservation program. This should be adequate time to prepare. Unusual circumstances could be addressed through an administrative review or a variance.</p> <p>Another comment stated that the program needs to be flexible, allowing for substitutions, deletions, and additions. We will provide for interim substitutions to BMPs.</p>	<p>Because the program calls for the providers to identify the characteristics of their own service areas and to explain how the BMPs that they are choosing address water conservation based on those characteristics, implementation of BMPs should lead to increased water use efficiency within a given service area. The BMPs being proposed for use within the program are measures that are generally accepted within the water community as promoting efficient water use.</p> <p>The Department and stakeholders considered several different approaches to the tier system within the program. The tier concept within the program was selected following discussions with stakeholders and analysis of different characteristics of existing large municipal water providers. The Department feels that the tiers</p>
<b>Tier Structure</b>	AZWC	<p>If water use is already very efficient within a system, the number of BMPs required of such a system may not be necessary. Past conservation efforts should be taken into account, as should the amount of remaining conservation potential in a system.</p>	<p>There is a great increase in the number of BMPs required from one tier to another. Woodruff suggests a “sliding scale” approach where providers with a similar number of service connections would have to implement a similar number of BMPs. A sliding scale approach would reduce the disparity in regulation between providers with a similar number of connections (i.e.: 4,999 connections and 5,001 connections).</p>	

		<p>included in the program represent measured, reasonable expectations to be placed on the providers within an administrative framework that is manageable by the Department. Because the program framework allows providers to implement more than the minimum number of required measures, they can add BMPs incrementally to prepare to be regulated under a higher tier.</p>
<b>BMP Issues</b>		<p>Please note, the responses below pertain to the stakeholder comments summarized on this page and on page 14.</p> <p>The Department is committed to developing a comprehensive list of Best Management Practices (BMP) that can be implemented by water providers. The Department will continue to work closely with the stakeholder group to develop this list, however the Department feels that the descriptions should not be so focused as to constrict a specific provider's ability to be creative and develop a program that works best for it. Furthermore, the Department has identified a specific number of BMPs depending on the size of the water provider instead of identifying which measures specifically should be implemented in a service area. The Department recognizes that the water providers are more acutely aware of their service area and will know best which measures will work most effectively. Thus, the goal of this program is to provide flexibility to the water providers to identify specific conservation measures that will meet their water use</p>
General	Chandler	<p>ADWR is encouraged to develop a list of pre-approved BMPs that would be acceptable for all or most service areas. BMPs that target specific service area characteristics could be more fully described to include more specific criteria for eligibility (i.e.: a certain percentage of homes built prior to 1992 for a toilet rebate program). This would help to reduce the time involved in the Provider Profile application and approval process.</p>
Replacement of ongoing measures with new measures	Global	<p>They understand that if a provider is already implementing a particular BMP, it will not be required to implement new or different BMPs in order to demonstrate that their conservation efforts are consistent with their service area's conservation potential. Is this a correct assumption?</p>
Robson	Woodruff	<p>Comment identical to Global's above.</p>
BMP selection - categories	Global	<p>Comment identical to Global's and Robson's above.</p> <p>They understand that a provider may choose as many BMPs as they wish from whatever category they wish if the BMPs are deemed appropriate for their service area. There is no requirement to choose a BMP from a specific category. Is this a correct assumption?</p>
	Robson	<p>Comment identical to Global's above.</p>

Required number	Woodruff Phoenix	<p>Comment identical to Global's and Robson's above.</p> <p>Requiring a specific number of BMPs does not make sense. If implementation of one BMP can get the provider to a desired level of efficiency, would additional BMPs be necessary?</p>	<p>The Department feels though that a minimum standard should be set for water providers of different sizes and characteristics recognizing that larger communities often have a more diverse portfolio of customers and smaller communities have not only limited resources but typically less diversity in the types of uses that they serve.</p>
	Tucson Water	<p>The focus should be on integrated resource planning rather than on implementing a certain number of BMPs. No rationale for the number of BMPs per tier has been given. This required number seems like an arbitrary approach rather than an attempt to establish a process to enable water providers to focus their limited resources on programs that work. Tucson Water would prefer that the methodology chosen to determine the number of required programs reflect a "quality" rather than a "quantity" approach.</p>	
	Add a BMP	Prescott	<p>Add "green" development programs as a BMP.</p>
	Confirm – no required COS for landscaping	Robson	<p>Please confirm that conditions of service related to turf or landscaping restrictions are only optional, not required, even if the Provider Profile indicates that conservation potential exists through implementing such a BMP. This issue is very important to Robson Communities, as they believe that landscaping choices are a property right issue. Robson cannot support a BMP program that contains requirements that would force turf-related restrictions on customers.</p>
	Reduce number / complete the definitions	Water Casa	<p>Comment nearly identical to Robson's above.</p> <p>It is our understanding that the BMP list is to be representative of those BMPs that all have agreed upon to reduce water usage. To help reduce ADWR's perception that it needs to determine any "potential," the BMP list should be reduced and tightened to be certain that everyone agrees to their merit. Complete definitions are needed for each</p>

Provider Profile	AZWC	Provider profiles should be used to help the provider choose BMPs. If good faith effort is made, extensive negotiation should not be necessary.
Reclaimed water	Chandler	<p><b>BMP.</b></p> <p>Use of reclaimed water should be included as a BMP. Chandler has made an investment in developing reclaimed water as a means to reduce potable water use and improve citywide water use efficiency. The significant efforts to use reclaimed water by municipal providers needs to be recognized as improving water use efficiency. Chandler included in its comment letter the language for a BMP regarding use of reclaimed water as an irrigation supply in-lieu of potable water.</p>
Graywater/rainwater harvesting	Gilbert	<p>Under the NPCCP program, Gilbert can reuse/recharge 100% of its reclaimed water and comply with one of its RCMs. Reclaimed water is currently served to 35 customers for irrigation uses. (Implied – add reuse as a BMP or argument for supporting NPCCP).</p>
Graywater/rainwater harvesting	Global	<p>Efforts to use renewable supplies such as reclaimed water and surface water to displace the use of groundwater should be recognized in the BMP program.</p>
Graywater/rainwater harvesting	Robson	<p>Comment almost identical to Global's above. Reference to surface water was absent.</p>
Graywater/rainwater harvesting	Woodruff	<p>Comment identical to Robson's above.</p>
Graywater/rainwater harvesting	Water Casa	<p>Ordinances, rebates, or incentives for graywater use and rain harvesting are absent from the BMP list. Graywater reuse and rain harvesting are seen as two of the most solid water conservation methods throughout the water community. They must be included on any BMP list.</p>
General		<p>Please note, the responses below pertain to the stakeholder comments summarized at left and on pages 16, 17 and 18.</p>

	AMWUA	<p>“The Framework states that provider profiles are subject to review and approval by DWR. Clearly, any disagreement between DWR and the provider about the adequacy of its profile, including its conservation potential and the appropriateness of the BMPs selected for implementation by the provider, will likely lead to the same kind of negotiations that characterized the implementation of the non-per capita programs, especially since a provider would be ‘...deemed out of compliance with TMP requirements until an acceptable Profile is submitted.’ Any disagreement over a provider’s conservation potential could be especially contentious since we are concerned that DWR would correlate a provider’s conservation potential to a provider’s financial ability to pay, and not whether a provider had accurately assessed its potential and elected to implement a BMP program suitable to its characteristics. Other events that could trigger the same kinds of disputes include the triennial profile updates, BMP substitutions, and the adequacy of annual reports.”</p>	<p>As discussed during stakeholder meetings, the program calls for the development and ongoing maintenance of a provider profile. The profile will detail the characteristics, including water use patterns and number of service connections in order to “paint a picture” of that particular service area. The BMPs the provider selects to meet program requirements should be justified in terms of how implementation of each measure will lead to increased water use efficiency in one or more water use sectors. The Department’s review will be based on the <u>provider’s demonstration</u> of the connection between the selected BMPs and water use in the provider’s service area, or some other prevailing service area characteristics. The Department is proposing this program structure based on the number of service connections, not the economic characteristics of the service area.</p>	<p>The Department agrees that more detailed information regarding the Provider Profile and how it will evaluate proposed BMP packages would be beneficial. To that end the Department intends to continue efforts to more fully develop these details, with the assistance of the BMP advisory group, for inclusion into a guidance document.</p>
Financial	AMWUA	<p>AMWUA is concerned that ADWR plans to correlate a provider’s conservation potential to a provider’s financial ability to pay and not whether a provider had accurately assessed its potential.</p>	<p>It is unclear how certain terms and conditions of the program will be administered and interpreted. The term “conservation potential” appears to be totally subjective and could be interpreted that the larger the provider, the deeper the pockets and the greater the conservation potential. If this is the case, Phoenix would be seriously concerned about equity issues.</p>	<p>Guidelines should be prepared for the provider</p>
	Clarify standards/ AZWC			

approval criteria		profile to define methods and means of establishing service area characteristics and how BMP selections should be analyzed for appropriateness.
Global		Approval standard for the Provider Profile is vague. Approval criteria are subjective. Urges development of specific criteria for evaluating the appropriateness of BMP selections relative to service area characteristics.
Peoria		Comment similar to Global. Criteria for adequacy are vague. Who determines the provider's conservation potential? Will ADWR rely on the provider's experience/assessment for this determination?
Robson		Comment similar to Peoria and Global. Without criteria, judging appropriateness of a BMP could become discretionary and subjective. Please clarify how ADWR intends to address developing a standard for approval of a provider's profile, including the selection of BMPs.
Woodruff		Comment identical to Robson.
Scottsdale		A mockup of the Provider Profile has not been made available for review; currently only the profile framework is available. The information required for the profile should be spelled out and agreed upon in advance.
Scottsdale		The method for determining conservation potential is not clear. There should be clearly defined standards for this, again agreed upon in advance.
Water Casa		The current draft framework gives no specifics as to how the Department will accomplish its review and approval of the Provider Profile. Are the two stated criteria for adequacy (selection of the correct number of BMPs and selection of BMPs that address the provider's service area conservation potential) the only criteria for approval? Support for the

		<p>program is unlikely without a clear understanding of the proposed process. Water Casa is concerned with the term “conservation potential,” which was first used in the current draft framework. The concern relates to possible problems similar to those expressed in relation to the NPCCP program, where the negotiation/approval process became prolonged and overly bureaucratic. It is important to take time now to determine how ADWR will actually manage their process.</p>
Insufficient information required	Prescott	<p>Users should have a comprehensive picture of their service area. Additional information should be included: Service area population, AWs, cost of water, current water-related CIP, median household size, median age, K-12 attendance numbers, watersheds, service area, annual precipitation, total housing units based in census data, building permit activity (post census), GPCD, estimated projected water use, GPHUD, platted but undeveloped lots, top commercial and industrial users, conservation partnerships, conservation codes adopted.</p>
	Tucson Water	<p>The current draft of the profile does not clearly help to illustrate conservation potential. It should include key information required to actually perform conservation planning. EPA’s Water Conservation Guidelines could be used as a model. The document includes data on condition of distribution system, climate and water availability and customer demographics (including population and economic growth rates, per capita water use by water use classification, and presence of larger-volume users). Benefits of the various BMPs can only be assessed after good planning is done. Without being too onerous, more specific information leading to more comprehensive planning should be included in the</p>

		profile.	
<b>Compliance Issues</b>	AZWC	Program needs a clear description of how compliance is to be determined.	Please note, the responses below pertain to the comments summarized on this page and on the top half of page 20.  The Department does not intend to “approve” the service area information, but rather to review the selected BMPs based on the provider’s own justification of how those measures will contribute to increased water use efficiencies in their service area. Following this review, the provider will implement (or continue to implement) the BMPs, and this implementation of the conservation measures is the compliance point of the program.
	AZWC	The provider should not be held responsible for the outcome of a BMP if the end user does not respond in the way anticipated or desired. “Compliance determinations should be based on measures implemented and methods used to implement, not on the actual level of participation or savings achieved.”	It is anticipated that, particularly during the first several years of the program, the Department will work closely with the regulated community in order to facilitate the creation of the Provider Profiles. The Department’s process of implementing this kind of program will involve modifying the Third Management Plans, which will not only allow for continued input into the program from stakeholders, but will culminate in noticing of new conservation requirements to providers. The noticing will allow for two years before the program requirements become enforceable, affording time for providers to work on their Profiles and to undertake other activities in order to be in compliance with the program at the end of that two-year period.
	Glendale	The framework lacks clarity on how the Department intends to determine a provider’s conservation potential, and subsequent compliance and enforcement of the BMP program.	
	Peoria	Metrics need to be developed to help more clearly define ADWR’s expectations of the providers regarding the completeness and adequacy of the Provider Profile and the Conservation Efforts Report, including what would be an adequate assessment of outcomes of the BMP efforts.	
	Peoria	The due date for the Conservation Efforts Report is such that a provider won’t know if it has met its BMP requirements until mid-year. This leaves only six months for the provider to make any necessary changes. The time frame also could affect budgeting for the following year.	
	Peoria	Consequences are not identified for providers not meeting their BMP requirements. (“What kind of regulatory compliance would be required?”)	
	Global	Entry into the program should be automatic and not subject to approval of the Provider Profile. If there are disagreements between the provider and ADWR, and the provider remains out of compliance with the	

	program, the provider will have a negative image (perceived as a “bad player.”) Providers should be assessed on BMP efforts.	Non-compliance with the requirements of the program (e.g., not implementing the required number of BMPs) would constitute a violation of management plan conservation requirements, and will be handled as such.
Robson	Similar comment to Global. Also, if ADWR does not approve a provider's selection of BMPs, how does the provider get into compliance?	
Robson	What would be the outcome if a provider profile is not approved? Would provider be in perpetual non-compliance until it agrees to implement any and all BMPs selected as appropriate by ADWR? Requests specific approval criteria for evaluating the appropriateness of a provider's BMP selection to avoid a situation where program compliance is not possible because of disputes over appropriateness with ADWR.	
Woodruff	Same comment as Robson's above.	
<b>Mandatory activities</b>		
Mandatory conservation rate structure	ACC	The requirement for a private water company to request a conservation rate structure within five years of the TMP modification and notice should be shortened to three years.
	AZWC	Conservation rates should not be required. Tiered rates should be included as an optional BMP in Category 4 (Physical System Evaluation and Improvement). Rate design and the rate setting process are within the exclusive jurisdiction of the ACC for pwcs. Rate setting is the prerogative of city councils and citizens for municipal utilities. Rate setting is not within the jurisdiction of ADWR. Monies spent on rate cases might be better spent on other activities that could be more effective in saving water.
	AMWUA	ADWR has no authority over how providers establish their water rates.

	<b>Chandler</b>	Water rate structure should not be a required program component. This requirement usurps the authority of the City Councils to determine water rates and leaves interpretation of what is and is not a conservation rate structure to ADWR.	Rates have long been recognized as an effective water conservation tool and the Department feels that such a measure is the foundation of any good program. Having said that and not wanting to tread into areas that would create an adverse relationship between the Department and municipal providers, this required measure has been revised. The measure now reads, “In addition to the other required measures, a municipal provider regulated under the modified NPCCP shall include in its annual reports filed pursuant to A.R.S. 45-632 a copy of the provider’s current water rate structure unless no changes have been made to the rate structure since it was last submitted to the Director. A municipal provider regulated under the modified NPCCP is encouraged to adopt a water rate structure that promotes efficient use of water, subject to approval by the Arizona Corporation Commission if the provider is a public service corporation.”
	<b>Gilbert</b>	Gilbert has a council approved conservation driven rate structure, and would not support the Department having the authority to interpret, dictate, or approve rate structures within their service area.	
	<b>Glendale</b>	Glendale is concerned with the provision that gives ADWR intentional or implied oversight of water rate structures.	
	<b>Mesa</b>	Mesa vigorously opposes any attempt by ADWR to assert regulatory control over municipal water rates.	
	<b>Peoria</b>	They trust that the requirement to implement a conservation rate structure will not be interpreted as a way to approve or deny a provider’s rate structure and that ADWR will acknowledge the considerations that governing bodies must take into account to establish their rate structure.	
	<b>Phoenix</b>	“This issue has perhaps the greatest potential to erode support for the BMP Program. The language requiring a ‘water rate structure that encourages the efficient use...’ on page 4 is a vast improvement over prior language. However the last sentence in that paragraph could be construed to define the first sentence in a way that leads right back to a ‘conservation rate structure’ and reopens that entire debate. Based on prior comments and discussion with ADWR, I don’t believe that is the intention of the Department. The specter of ADWR weighing in on ‘appropriate’ water rates for a municipal provider will likely sink this entire program. Furthermore, this required BMP should not be interpreted so the ADWR can decide whether or not tired water rates	These annual submittals will be published on the Department’s website to provide members of the broader community an opportunity to compare and better understand water rates in AMAs.

	Scottsdale	are ‘good enough’ to encourage efficient use.”	
	Tucson Water	Although Tucson Water has had a conservation rate structure in place for over twenty years, they are concerned with the language in the current draft. They don’t believe that current ADWR staff intends to usurp the rights of governing bodies to determine rates, but are concerned that the current language could be misinterpreted in the future. Tucson Water encourages removing the requirement or, at minimum, including the specific limitations contained in earlier drafts of the program framework.	
Conservation rate structure - definition	Global	No clear standard/definition in framework for “conservation rate structure.” Is a two-tiered structure acceptable?	
	Robson	“Water rate structures that encourages the efficient use of water” is vague, with no clear standard in the concept paper on how ADWR will make this evaluation. Does “inverted block rate” or “progressive rate” meet the intended requirement? Would a block rate structure with only two different rates comply with the requirement?	
Time frame	Woodruff Global	Comment identical to Robson’s above. Rather than requiring pwcs to request a conservation rate structure from the ACC within five years of plan modification and notice, leave it open to allow them to ask the next time they go in for a rate case.	
	Robson	Cannot support a “mandatory call-in. Instead, they	

		propose a change in the language that enables the pwc to seek such a rate the next time the company presents a rate case before the ACC, eliminating the five years or less time frame.	
Suggested exemption	Woodruff	Comment identical to Robson's above.	
	Global	Changing rate structures may not be appropriate for some systems where the impact on water use would be negligible.	
	Robson	Suggests an exemption for those providers that demonstrate limited potential to impact water use.	
	Woodruff	Comment very similar to Robson's above.	
L&U requirement	AZWC	10% or less L&U should not be required. Instead, this situation could trigger selection of a BMP to improve system losses.	The Department disagrees with this comment. The statutes require the Department to adopt conservation requirements for the distribution of groundwater by municipal providers in each management plan. The lost and unaccounted for water use limitation is required in the TMP for each municipal provider regardless of the conservation program it is regulated under.
100% metered connections	Prescott	This needs to be clarified.	Municipal water providers in AMAs are required to “...meter water deliveries to all service connections on its municipal distribution system, except connections to fire services, dwelling units in individual multifamily units, mobile homes in a mobile home park with a master meter, and construction users.” (See the Third Management Plan for each AMA, Chapter 5 – Municipal Conservation Program, section titled Monitoring and Reporting Requirements for Municipal Providers and Individual Users. This is Section 5-113.5 in the management plan for the Prescott AMA.)

<b>Annual water use measurements</b>		
Chandler	Choose a measurement that is most appropriate for the service area: total GPCD for providers that are built out or are experiencing very little change, residential GPCD for those where more non-residential users are located.	The Department has chosen GPCD as the annual water use measurement for the modified NPCCP to be consistent with the measurement used for the GPCD program. Total GPCD, residential GPCD, and non-residential GPCD will be calculated for municipal providers participating in both programs.
Peoria	Although it is understood that an annual water use measurement will not be used as a compliance point, ADWR should clarify what course of action it would take should a provider show an increasing upward trend.	GPCD will not be used as a compliance point for the modified NPCCP, but will be monitored over time to track water use trends. These trends may provide insights into the effectiveness of specific BMPs and/or the modified NPCCP program in general and will be used during the program evaluation process.
Phoenix	Phoenix believes that clear benchmarks for water use must continue to be identified and followed as part of any municipal water conservation program. GPCD is one clear-cut example of such a benchmark. Phoenix's GPCD rate has gone from almost 270 to 210 since 1980.	
Tucson Water	Will all providers be required to select the same tracking measurement? Is this information that will require additional calculation/monitoring beyond the annual report currently submitted? If so, what is the purpose of this tracking measurement and why require it if it is not to measure or determine compliance?	The annual water use measurement must be in place before elimination of the GPCD program. They are not supportive of GPCD as a compliance measure but recognize its value for monitoring water usage. They find greater meaning in residential GPCD. ADWR needs to give an account of how it administers the GPCD account.
Water Casa		

<b>Reporting requirements</b>		
AMWUA	Description of the BMP reporting requirements is vague, leaving ample opportunity for DWR to conclude inadequacy. There is a lack of clarity in the draft framework which leaves some question as to what information is required from providers.	The Department agrees that more detailed information concerning the reporting requirements for the program should be developed, and has drafted a Conservation Efforts Report form. The Department looks forward to continuing to work with stakeholders as the program's reporting requirements are finalized. The Department feels that the reporting requirements as currently contemplated under the program framework will result in less administrative burden for both the agency and the providers than those of the current NPCCP.
Scottsdale	The draft Framework does not indicate the structure of the Conservation Efforts report or how much information it should contain. Clear reporting standards must be developed in conjunction with the water providers.	One of the primary benefits of the total GPCD program is that the provider has the opportunity to meet its GPCD requirement in any way it chooses. If a mandatory conservation education program is required of all large municipal providers, the element of choice would be reduced for those participating in the total GPCD program. Since the modified NPCCP program would be a performance-based program, the Department has more latitude to require certain activities. Because the Department values water conservation education and believes that all large providers should implement a basic water conservation education program, this will be required for modified NPCCP program participants. However, because of the flexibility inherent in the total GPCD program and because that program is a water use based program, rather than a performance based program, we do not intend to modify the total GPCD program to
Water Casa	Quite a lot of effort seems to be made to get those providers with no current conservation program to implement some kind of conservation oriented activity. One suggestion to help with this situation might be to make the required measures part of the general framework. Therefore, all providers must have 100% metered connections and 10% or less L&U. Having a basic conservation education program included with the general framework would remove the concern of having more than one conservation regulatory program.	

			require specific conservation measures.
<b>Program objectives</b>	Peoria	<p>It is important to be able to demonstrate that water use efficiency is being achieved by municipal providers. Under the current framework, all BMPs are equally weighted even though not all may have the same impact on water use efficiency. GPCD or GPHUD should be used as a benchmark to indicate trends in efficiency. A program that merely requires providers to implement a list of measures is not an adequate indicator of the accomplishments made through the conservation program. This approach also may not promote an increase in water use efficiency over time. Arizona's accomplishments must be defensible to other entities in the region.</p>	<p>It is true that the draft program framework contains a listing of BMPs, all of which are equally weighted. This approach enables each provider to implement a program that is best suited to its service area in accordance with its own needs, financial ability, staffing constraints, and characteristics.</p> <p>One reason for including a water use measure in the modified NPCCP would be to benchmark and track water use trends over time. Although, the GPCD measurement will not be used as the compliance point, it will help us to evaluate the overall effectiveness of the modified NPCCP as it relates to our goal of increased and/or maintained water use efficiencies in the municipal water use sector. We agree that Arizona's accomplishments in the area of water conservation must be articulated throughout the region, which is one reason why the Department included an outreach effort as an element of the modified NPCCP. Although the outreach effort has been included in the program framework, it will be used to support and publicize water conservation efforts implemented by municipal water providers participating in each of the Department's municipal conservation programs (GPCD and NPCCP).</p>

<b>Program evaluation</b>	Chandler	<p>Chandler encourages ADWR to set up an advisory committee comprised of water providers and ADWR staff. Water providers are the best local experts and are in the best position to evaluate program effectiveness. Program effectiveness should be better defined to include water use efficiency, economic development, and quality of life.</p>	<p>The program evaluation is intended to look at the overall effectiveness of the modified NPCCP, as well as the effectiveness of each of the BMPs implemented under the program. Individuals participating in the evaluation process will not be asked to judge the activities implemented by each municipal provider; however, implementation methods, including equity issues and levels of intensity, will very likely be topics of discussion during evaluation of individual BMPs. Such discussions may result in modifications to the BMP descriptions or in recommendations to remove specific BMPs from the list.</p>
	Peoria	<p>Details of the periodic BMP/program evaluation are not defined.</p>	<p>The Department plans to establish a BMP advisory committee, which will be comprised largely of water provider representatives, university staff, and ADWR staff. This group will be instrumental in conducting both segments of the program evaluation (overall program effectiveness and effectiveness of specific BMPs). Should the Department choose to obtain the services of an independent researcher or other technical assistance, the BMP advisory committee would be asked to participate in discussions regarding project scope and research methods. In addition, their work would be presented to the BMP advisory committee and to other interested provider representatives and to Department staff for review and comment.</p>